

The Tetromino

Entrepreneurship, the iPhone, and Tetromino Falling Block Games

Tetris and Intellectual Property Rights: Trademark

Posted December 7, 2008 by desireexg

Categories: Tetris and Falling Block Games, Tetromino Games

This article is Part III of a series that elucidates the issues surrounding iPhone Tetromino games, Intellectual Property Law, and the Tetris Company. The series begins with a reproduction of the Tetris Company's Cease and Desist Letters. Next, it defines and explains patent, trademark and copyright law. Finally, it concludes with a re-examination of the Tetris Company's claims of infringement.

What is a Trademark

A trademark is anything used in commerce to associate a product or service to its legal entity of origin (this can be an individual, organization, or company). A trademark can apply to a word, name, symbol, device, and even a sound (USPTO). One common example of a very simple, but clearly recognizable trademark is Nike's logo.

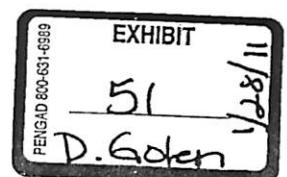
Trademark Rights

Trademark rights prevent outside vendors from using identical or "confusingly similar" marks on their merchandise to sell their products (USPTO).

For example, Nike Inc.'s trademark rights prevent other athletic manufacturers from designing and selling a shirt that uses the Nike logo or a confusingly similar variant thereof. Nike Inc. has invested considerably in advertisement to build its company name and to ensure a certain degree of quality for its products. Therefore, another company's use of its logo unfairly misleads the customer and dilutes the value of Nike.



Trademark rights do not, however, "prevent others from making or selling the same goods or services under a clearly different mark." (USPTO). This means that I can go into any athletic store, find a nike shirt that I love, manufacture an identical product (provided the design is not copyrighted and the formula for the material is not patented), brand it with my own logo, and sell it.





Trademark rights can last indefinitely, provided the owner continues to legally enforce and protect his trademark. (This makes sense; we wouldn't want to create a new name and logo for our company every ten years or so.) If, however, the registered trademark is in use by many other companies to the extent that it is no longer uniquely associated with the trademark owner, renewal can be contested in court.

Tetris and Trademark

The Tetris Company has obtained registered trademarks for the use of the word TETRIS and the Tetris logo in the industries of:

"games and playthings; namely action figures, bagatelle games; video games and video game cartridges; electronic game equipment for playing video games; electronic game programs; electronic toys with a clock or timepiece feature; hand held electronic toys; non-electronic hand held games; player operated electronic controllers for electronic video game machines; toy figures mountable on pencils and pens,"

"video game cartridges and software for playing video games,"

"clothing, namely shirts, hats and t-shirts," and "hand held video games".

(Registration 1,657,499: September 17, 1991, renewed in 2001; Registration 2,362,250 and 2,362,238: June 27, 2000).

Has the Word TETRIS Become Generically Associated with the Genre of Tetromino Falling Block Games?

Hundreds of tetromino falling block games are available on the internet that are not associated with the Tetris Company, but that call their products TETRIS (or a variant thereof). In fact, its possible for a tetromino player to go through life without buying Tetris, or even knowing about the Tetris Company.

This is because the word TETRIS has come to refer to the genre of tetromino/falling block games. As such, the question now becomes, is the Tetris Company's registered trademark on the use of the word TETRIS valid?

This issue has never made it to court, most likely because the Tetris Company is afraid of losing a legal battle that would revoke its trademark rights.

What Makes a Name "Confusingly Similar"?

It is also unclear how dissimilar a tetromino game name must be to the word TETRIS. Some believe that the trademark covers the TETR prefix. But the term "tetromino" and the prefix "tetra" (meaning four) which predate Tetris, also contain TETR.

This issue has also never been settled in court.

How to Avoid Trademark Infringement

To safeguard against any trademark infringement claims, create your game, refer to it as a “tetromino” or “falling block game”, and give it a completely different name (or one that you are prepared to defend).

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The Tetris Company and the iPhone

Posted December 7, 2008 by desireexg

Categories: [Tetris and Falling Block Games](#), [Tetromino Games](#), [iPhone](#)

This article is Part I of a series that elucidates the issues surrounding iPhone Tetromino games, Intellectual Property Law, and the Tetris Company. The series begins with a reproduction of the Tetris Company’s Cease and Desist Letters. Next, it defines and explains patent, trademark and copyright law. Finally, it concludes with a re-examination of Tetris Company’s claims of infringement.

The Tetris Company v. Tris, Kafablo, Teto Teto, Shaker, and Touchris

Since Aplpe Inc. launched the Appstore in August, 2008, the Tetris Company has bullied five Tetromino game developers into removing their games from the Appstore. Each developer received a Cease and Desist Letter from the Tetris Company, followed shortly by a warning from Apple to remove infringing materials. Let me start by saying that these letters are absolutely bogus. You will soon understand why.

Below is a compilation of the Cease and Desist letters that a few iPhone Tetromino game developers received.

“We are the intellectual property counsel for The Tetris Company, LLC, exclusive licensee of Tetris Holding, LLC in and to the Tetris® mark and game. Collectively, The Tetris Company, LLC and Tetris Holding, LLC are referred to as ‘The Tetris Company.’ The Tetris Company is the owner of copyright in the game throughout the world, including U.S. copyright registrations PAu 1,214,036; PAu 1,214,035; PA 412,169; and PA 412,170.

This letter is a notice of infringement pursuant to § 512(c) of the U.S. Copyright Law (section 512 is known as the Digital Millennium Copyright Act) and your Copyright Infringement Policy at www.apple.com/legal/trademarkclaimsofcopyright.html. We also write pursuant to the Lanham Act, the federal trademark statute.

The Tetris Company recently became aware of your company’s promotion and display of a ‘—’ game on Apple’s iTunes, where the user may download and play the game. The ‘—’ game violates the copyright in the Tetris® game because it is a copy of our client’s game and was created and is being reproduced and sold or made available for play without our client’s prior permission or authorization.

Such wrongdoing subjects your company, and any other person or entity acting in concert with it, to an injunction, liability for statutory damages, compensatory damages, punitive damages, disgorgement of profits, costs and attorneys’ fees under the U.S. Copyright Act, 17 U.S.C. §101 et seq. Accordingly, The Tetris Company demands that you immediately cease display, distribution, publication or offering of the ‘—’ game in question and any games infringing our client’s rights, on any web site, or in any other fashion, whether via the Internet, or not.

I have a good faith belief that use of the copyrighted materials described above as allegedly infringing is not authorized by the copyright owner, its agent, or the law. I swear, under penalty of perjury, that the

information in this notification is accurate and that I am authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

This letter is without prejudice to our client's legal rights and remedies, all of which are expressly reserved, and does not purport to be an exhaustive statement of its legal position."

Comments: Be the first to comment

Tetris and Intellectual Property Rights: Patent

Posted November 19, 2008 by desireexg

Categories: Tetris and Falling Block Games

This article is Part II of a series that elucidates the issues surrounding iPhone Tetromino games, Intellectual Property Law, and the Tetris Company. The series begins with a reproduction of the Tetris Company's Cease and Desist Letters. Next, it defines and explains patent, trademark and copyright law. Finally, it concludes with a re-examination of the Tetris Company's claims of infringement.

What is a Patent ?

A patent is an intellectual property right that grants an inventor the "right to exclude others from making, using, offering for sale, or selling" an invention (USPTO) for a period of up to 20 years. When a patent expires, the invention passes to the public domain.

Essentially a patent authorizes a *temporary* monopoly on a novel idea.

What is the purpose of a patent?

The purpose of a patent is to benefit society by 1) encouraging innovation that will improve the quality of life and 2) establishing a process by which inventions pass to the public domain.

Break It Down

The first stage of patent rights rewards the inventor.

Lets say I discover a drug that treats symptoms of autism spectrum disorders, and that I successfully apply for a patent. Knowing the demand of such a product, and that I will be its sole manufacturer for the next 20 years, I set a high price. What happens? Wealthy patients flock to their doctors to secure a prescription, and I profit greatly. Meanwhile, success stories pervade the media. Pharmaceutical companies begin to prepare for the day when they can get their hands on the formula, and autism patients gain confidence in the treatment.

The second stage of patent rights opens the market and brings the invention to the general public.

When my patent expires, the formula of my drug is made public. At this time any third party is free to step in and replicate, refine, and distribute the formula. The result? New competition, new implementations and improvements to my formula, increased supply, lower prices, and higher accessibility of the product to the general public. Now families that could not afford the original drug can buy "knock-off" brands that use the same formula to treat symptoms of autism spectrum disorders.

All in all, the inventor enjoys her day in the sun, and society benefits by being introduced to an invention that improves many people's lives.

What is Patentable?

Novel and non-obvious inventions or discoveries are patentable.

The game concept of Tetris was once patentable. However, because it was never patented, it now lies in the public domain. Moreover, had Pajitnov patented Tetris at the time of its invention (1985), by now (23 years later), his patent rights have expired.

What this means is that no legal framework currently protects the replication, improvement, or sale of Tetris game mechanics and rules.

What does this mean for “Knock-off”, “Home-Made” or Tetris “Clones”?

First off, lets call them “Tetromino games” so we don’t cross over into the Trademark argument. The answer is that ANYONE can freely and legally create a Tetromino game with identical game play and rules as the original Tetris, provided that he uses his own codebase, art, and music.

I will go into Trademark rights in my next post, so lets hold off on “naming” a Tetromino game for now.

Comments: [1 Comment](#)

Lets Get This Straight: Tetromino and Tetris

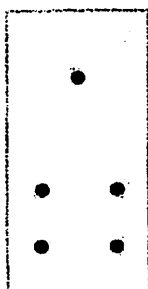
Posted November 18, 2008 by desireexg

Categories: [Tetris and Falling Block Games](#)

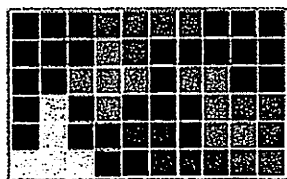
Tetromino

A Tetromino is a geometric figure composed of four, square sub-units that are connected orthogonally. There are five unique configurations of tetrominoes referred to as the L/J, S/Z, I, O, and T pieces because they resemble these characters of the Roman alphabet.

You might be familiar with the term Domino, a geometric figure comprised of *two* square subunits connected orthogonally. Also in existence are “pentominoes” (five) and “polyminoes”(more than one; many). Pentomino is a puzzle game that consists of arranging different configurations of pentominoes into rectangular boxes of varying sizes.



Domino Piece



Pentomino Puzzle 10x6

Tetris

In 1985 Alexey Pajitnov invented Tetris, a computer game derived from his favorite puzzle game, Pentomino. Most likely, Pazitnov used tetrominoes in place of pentominoes for simplicity’s sake. In Tetris, randomly ordered tetrominoes descend from the top of a grid at a constant speed. Players must arrange these “falling” pieces on the grid through rotation and translation. Once a piece hits the “ground”, it locks into place. When a

complete horizontal row of the grid is filled, the row is cleared and the player is awarded points. Players can change the acceleration of the pieces to win more points. The object of the game is to gain as many points as possible before reaching the top of the grid.

Tetris Game Concept

What I just described is the game concept of Tetris. The only intellectual property right that protects a game concept is a patent.

If Alexey had not been living in the Soviet Union at the time of his invention, he might have patented the Tetris game concept. However, he was living in a time and place where private business was outlawed and the idea of intellectual property did not exist. The BBC documentary entitled *Tetris, From Russia with Love* describes the atmosphere of Russia in 1985 as a place where

“individual ideas were owned by the state and were to be shared among everyone.”

So, Alexey put Tetris on a disk and shared it with his friends. Tetris spread throughout Russia, and then to Hungary, and then to the rest of the world.

Comments: [1 Comment](#)

Tetris and Intellectual Property Rights: Copyright

Posted January 21, 2008 by desireexg

Categories: [Tetris and Falling Block Games](#), [Tetromino Games](#)

This article is Part IV of a series that elucidates the issues surrounding iPhone Tetromino games, Intellectual Property Law, and the Tetris Company. The series begins with a reproduction of the Tetris Company's Cease and Desist Letters. Next, it defines and explains patent, trademark and copyright law. Finally, it concludes with a re-examination of the Tetris Company's claims of infringement.

Lets begin with the most pertinent piece of information—What Copyright does NOT protect:

Copyright does not protect the idea for a game, its name or title, or the method or methods for playing it. Nor does copyright protect any idea, system, method, device, or trademark material involved in developing, merchandising, or playing a game. Once a game has been made public, nothing in the copyright law prevents others from developing another game based on similar principles.

So what *is* copyright, and what *does* it protect?

Copyright protects “original works of authorship including literary, dramatic, musical, artistic, and other intellectual works”. The words in a book, the lyrics to a song, the sequence of notes in a song, and a movie script are copyrightable. I can't steal these works of art and publish them under my name.

Computer programs, to an extent, are literary works. The source code of a computer program is copyrightable. What language you use and your architectural decisions are uniquely yours, and can be protected under copyright law. The function of a program, however, is not copyrightable. If the function of a program were copyrightable, we would be left with one email client, one document processor... one everything, and the world would be a terrible place.

The Tetris Company and Copyright

The Tetromino

The Tetris Company owns a copyright of its source code and of certain audiovisual effects of Tetris. This means that I can't hack into the Tetris Company's codebase, and copy-and-paste it into my own program. Nor can I steel their music and graphic files and insert them into my program.

However, I can create my own game (using my own source code, music, and graphics) based on the **unpatented Tetris game idea** and distribute it publicly.

Yes, thats right.

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